

SUPREME COURT OF WISCONSIN

Case No.: 94-1991

Complete Title
of Case:

Jane DeRuyter, Jason DeRuyter and
Travis DeRuyter, by Donald J. Jacquart,
their Guardian Ad Litem and the Estate
of Glenn R. DeRuyter, by Eric E.
Eberhardt, Special Administrator of the
Estate of Glenn R. DeRuyter,
Plaintiffs-Respondents-Co-Petitioner,
v.

Wisconsin Electric Power Company,
Defendant-Appellant,
Great West Casualty Company, Inc.,
Defendant-Respondent-Petitioner,
American Standard Insurance Company
and Michael T. Schmaling,
Defendants-Respondents,
Employers Insurance of Wausau, A Mutual
Company,
Defendant.

Great West Casualty Company, Inc., JJ Transport,
Inc., Power Transport, Inc., and Cedarland
Trucking, Inc.,
Plaintiffs-Respondents-Co-
Petitioners,

v.
Wisconsin Electric Power Company,
Defendant-Appellant,
American Standard Insurance Company of
Wisconsin and Michael T. Schmaling,
Defendants-Respondents.

ON REVIEW OF A DECISION OF THE COURT OF APPEALS
Reported at: 200 Wis. 2d 349, 546 N.W.2d 534
(Ct. App. 1996)
PUBLISHED

Opinion Filed: June 20, 1997
Submitted on Briefs:
Oral Argument: March 5, 1997

Source of APPEAL
COURT: Circuit

COUNTY: Milwaukee
JUDGE: John E. McCormick

JUSTICES:

Concurred:

Dissented:

Not Participating: Crooks, J., did not participate.

ATTORNEYS: For the defendant/plaintiff-respondent-petitioner/co-petitioner, Great West Casualty Company, Inc., there were briefs by *Douglas J. Carroll*, and *O'Neill, Schimmel, Quirk & Carroll, S.C.*, Milwaukee.

For the plaintiffs-respondents-co-petitioners there were briefs by *David P. Lowe*, *Donald J. Jacquart* and *Jacquart & Lowe, S.C.*, Milwaukee and *Michael P. Crooks* and *Peterson, Johnson & Murray, S.C.*, Madison and oral argument by *David P. Lowe* and *Michael P. Crooks*.

For the defendant-appellant there was a brief by *Jeffrey Morris* and *Quarles & Brady*, Milwaukee and oral argument by *Jeffrey Morris*.

Amicus curiae brief was filed by *Michael H. Gillick* and *Murphy, Gillick, Wicht & Prachthauser*, Milwaukee for the Wisconsin Academy of Trial Lawyers.

Amicus curiae brief was filed by *Patrick K. Stevens*, *Werner E. Scherr*, *Jeffrey S. Meyer*, *Michael A. Greene*, *Jerome D. Okarma* and *Edwina A. Wilson* for Manufacturers & Commerce, Milwaukee Transport Servcies, Inc., Harnischfeger Industries, Inc., Johnson Controls, Inc., Wisconsin Bell, Inc., and General Electric Medical Systems.

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 94-1991

STATE OF WISCONSIN

:

IN SUPREME COURT

Jane DeRuyter, Jason DeRuyter and Travis DeRuyter, by Donald J. Jacquart, their Guardian Ad Litem and the Estate of Glenn R. DeRuyter, by Eric E. Eberhardt, Special Administrator of the Estate of Glenn R. DeRuyter,

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v.

Wisconsin Electric Power Company,

Defendant-Appellant,

Great West Casualty Company, Inc.,

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American Standard Insurance Company and Michael T. Schmaling,

Defendants-Respondents,

Employers Insurance of Wausau, A Mutual Company,

Defendant.

Great West Casualty Company, Inc., JJ Transport, Inc., Power Transport, Inc., and Cedarland Trucking, Inc.,

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v.

Wisconsin Electric Power Company,

FILED

JUN 20, 1997

Marilyn L. Graves
Clerk of Supreme Court
Madison, WI

Defendant-Appellant,

**American Standard Insurance Company of
Wisconsin and Michael T. Schmaling,**

Defendants-Respondents.

REVIEW of a published decision of the Court of Appeals¹ reversing the decision of the Circuit Court for Milwaukee County, John E. McCormick, Judge. *Affirmed.*

¶1 PER CURIAM. This court is equally divided on whether to affirm or reverse the decision of the court of appeals. Justice Donald W. Steinmetz, Justice Jon P. Wilcox, and Justice Ann Walsh Bradley would affirm; Chief Justice Shirley S. Abrahamson, Justice William A. Bablitch, and Justice Janine P. Geske would reverse. Justice N. Patrick Crooks did not participate.

¶2 Accordingly, the decision of the court of appeals is affirmed.

¹ DeRuyter v. Wisconsin Electric Power Co., 200 Wis. 2d 349, 546 N.W.2d 534 (Ct. App. 1996).